



November 8, 1999

Ms. Diana Adams  
Assistant Criminal District Attorney  
Waller County  
836 Austin Street, Suite 105  
Hempstead, Texas 77445

OR 99-3168

Dear Ms. Adams:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129287.

The Waller County Criminal District Attorney's Office (the "Waller County DA") received three requests for information concerning *State v. Blackford*, Cause Number 97-064, Cause Number 97-434 and Cause Number 9749. You state you do not have information responsive to request number 4 and that you will release information responsive to request numbers 5 and 6. You claim that the remaining requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the information at issue.

Section 552.108 of the Government Code states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). You have provided this office with two Motions for Discovery that were filed by the requestor in two of the cases. You state there is a pending criminal case. In addition, you have submitted the information that is responsive to request number 7 and a copy of Incident Report Number 0990019. We have reviewed the information and agree that the submitted information relates to the pending criminal litigation. We therefore believe that the release of the information "would interfere with the detection, investigation, or prosecution of crime." *Id.*; See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). However,

section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of the basic front page offense and arrest report information, you may withhold the requested information from disclosure based on section 552.108(a)(1).<sup>1</sup> We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

Finally, with to regard request numbers 1, 2, and 3, you did not provide this office with the specific information requested or representative samples of the information responsive to request numbers 1, 2, and 3 by the 15<sup>th</sup> business day after the Waller County DA received the request pursuant to section 552.301(e)(1)(d). Section 552.301(e)(1)(d) provides that:

A governmental body that requests an attorney general decision . . . must within a reasonable time but not later than the 15<sup>th</sup> business day after the date of receiving the written request:

(1) submit to the attorney general:

(D) a copy of the specific information requested, or submit representative samples of the information if a voluminous amount of information was requested[.]

Act of May 25, 1999, 76th Leg., R.S., ch. 1319, §20, 1999 Tex. Sess. Law Serv. 4500, 4508-09 (Vernon) (to be codified as an amendment to Gov't Code §552.301(e)). Therefore, the requested information responsive to request numbers 1, 2, and 3 is presumed to be public and must be released. Gov't Code § 552.302; *see Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ). In order to overcome the presumption that the requested information is public, a governmental body must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381; *see* Open Records Decision No. 630 (1994). You have not raised any specific compelling reasons to overcome the presumption that the information is public. Thus, we conclude that the information must be released to the requestor. We caution that the distribution of confidential information constitutes a criminal offense. Gov't Code §552.352.

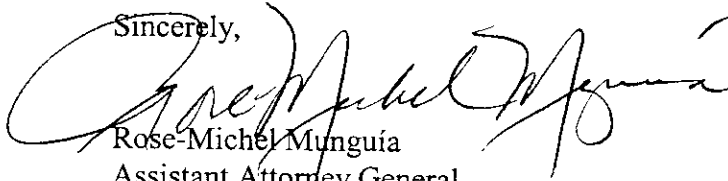
As section 552.108 is dispositive, we do not address your 552.103 claim. We are resolving this matter with an informal letter ruling rather than with a published open records decision.

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<sup>1</sup>Generally, basic information is not excepted from public disclosure by section 552.103. Open Records Decision No. 362 (1983).

This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Rose-Michel Munguia", written over the typed name.

Rose-Michel Munguia  
Assistant Attorney General  
Open Records Division

RMM/jc

Ref.: ID# 129287

Encl. Submitted documents

cc: Mr. William E. Parham  
916 Wilkins Street  
Hempstead, Texas 77445  
(w/o ~~enc~~losures)